

BOARD OF PERSONNEL APPEALS

MINUTES – JANUARY 8, 2009 MEETING

PRESENT:

Jack Holstrom, Presiding Officer (by telephone)
Steve Johnson (by telephone)
Jay Reardon
Alice Whiteman (by telephone)
Quinton Nyman

STAFF ATTENDING:

Marieke Beck, Board Attorney
Tonya McCormack
John Andrew
Joe Maronick
Paul Melvin

BOARD BUSINESS

APPROVAL OF MINUTES:

In the Oral Argument portion of the minutes, the word tangible needs to be put into the second paragraph in front of evidence in the Case Managers' Findings of Fact statement. Then in the last paragraph the sentence "Presiding Officer Holstrom directed the Board Attorney that hiring panels should be followed by the Board." needs to be omitted. Member Reardon moved to adopt the updated minutes of the September 18, 2008 after the two changes are made. Member Johnson seconded the motion and it passed unanimously.

NEXT MEETING DATE:

The next meeting is set for February 26th, in the second floor west conference room B of the Employment Relations Building, 1805 Prospect Avenue, Helena, Montana. There is an Unfair Labor Practice case on appeal and scheduled for Oral Argument. Marieke Beck, Board Attorney, will be out for maternity leave and Vivian Hammill will handle as counsel. The meeting date may be subject to change to fit schedules.

ATTORNEY COMMENTS:

Marieke Beck had emailed Board members information regarding lay representation. The Board reviewed her memo in regards to the different options that are available to the Board as how to handle this issue. The Board is interested in protecting the parties, adequately protecting appeal rights and costs involved to parties to present before the Board.

The options that are available are:

1. The "dependent upon the stage in the proceedings" approach
2. The "anybody and everybody" approach
3. The "more common" approach

Member Reardon moved to adopt the more common approach and direct the Board Attorney to structure the policy and rule. Member Nyman seconded the motion. Member Johnson dissented. Put to vote 4-1, motion passed

Marieke Beck had also emailed Board members information regarding "no merit dismissal" cases that must come before the Board. There are determinations that are done by the Board Agents (John Andrew) in regards to receiving Unfair Labor Practice charges. No new evidence can be brought before the Board during that time. The Board will review the Board Agent's decision and if they find merit to the case, then forward on to the Hearings Bureau for an actual hearing on the matter. If Board Agent was correct in issuing, then dismiss the case and issue a decision by the Board to that effect.

Member Reardon asked Marieke to develop a standard in regards to "no merit dismissals". All members were in agreement, no motion made.

MISCELLANEOUS:

Presiding Officer Holstrom welcomed Quinton Nyman as the newest Board Member. He replaces Allen Audet.

Tonya McCormack gave a legislative update. There was a legislative compliance audit. It will be put into statute that the Governor appoints alternate members to the Board. Alternate members will also serve a particular term.
